

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Home-Owners Insurance Company,

Plaintiff,

Case No. 16-cv-13977

Hon. Matthew F. Leitman

v.

Blue Cross Blue Shield of Michigan, *et al.*,

Defendants.

ORDER ON MOTIONS TO DISMISS (ECF ## 5 & 8)

On October 19, 2016, Plaintiff Home-Owners Insurance Company (“Plaintiff”) filed a third amended complaint (TAC) in Oakland County Circuit Court against Defendants Blue Cross Blue Shield of Michigan (“BCBSM”), Asplundh Tree Expert Company (“Asplundh”), Asplundh Tree Expert Company Health Benefit and Premium Payment Plan (the “Plan”), Independence Blue Cross (“Independence”), and Independence Administrators (the “Administrators”). (*See* State Court Complaint, ECF #1-2 at 2, Pg. ID 10.) On November 9, 2016, Defendants removed the case to this Court. (*See* Notice of Removal, ECF #1 at 1, Pg. ID 1.)

There are now two separate motions to dismiss before the Court. First, on November 16, 2016, Defendants Asplundh, the Plan, Independence, and the Administrators, collectively, moved to dismiss the claims in the TAC directed at

them (the “Collective Motion to Dismiss”). (*See* ECF #5.) Second, on November 23, 2016, Defendant BCBSM separately moved to dismiss the claims in the TAC against it (the “BCBSM Motion to Dismiss”). (*See* ECF # 8.)

The Court held a hearing on the motions on February 21, 2017. For the reasons explained on the record at the hearing:

- The Collective Motion to Dismiss (ECF #5) is **GRANTED**. The claims against Defendants Asplundh, the Plan, Independence, and the Administrators are **DISMISSED WITHOUT PREJUDICE**.
- The BCBSM Motion to Dismiss (ECF #8) is **GRANTED**. The claims against BCBSM are **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall not direct any discovery towards BCBSM without further order of the Court.
- Plaintiff shall file a Fourth Amended Complaint by March 7, 2017. The Fourth Amended Complaint should not include claims against BCBSM. Defendants shall respond to the Fourth Amended Complaint by March 21, 2017.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: February 23, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 23, 2017, by electronic means and/or ordinary mail.

s/Karri Sandusky (in the absence of Holly A. Monda)

Case Manager

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